

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

ELLEN BERNFELD,

Defendant.

Adv. Pro. No. 10-04918 (SMB)

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

MARILYN BERNFELD TRUST; HERBERT
BERNFELD RESIDUARY TRUST, in its own
capacity and as a partner of H&E Company – A
Partnership and Bernfeld Joint Venture – A
Partnership; H&E COMPANY – A PARTNERSHIP;
BERNFELD JOINT VENTURE – A
PARTNERSHIP; MARILYN BERNFELD, in her
capacity as a partner of H&E Company – A
Partnership and Bernfeld Joint Venture – A

Adv. Pro. No. 10-05143 (SMB)

Partnership, and as Trustee for the Marilyn Bernfeld Trust and the Herbert Bernfeld Residuary Trust; ELLEN BERNFELD, in her capacity as a partner of H&E Company – A Partnership and Bernfeld Joint Venture – A Partnership; and THOMAS BERNFELD, in his capacity as a partner of Bernfeld Joint Venture – A Partnership,

Defendants.

IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

MICHAEL A. BELLINI, individually and as a joint tenant; and JUDITH BELLINI, individually and as a joint tenant,

Defendants.

Adv. Pro. No. 10-04841 (SMB)

PROPOSED ORDER ON CONSOLIDATED MOTION FOR SANCTIONS

This cause having come before the Court on April 27, 2016, on the motion (“Motion”) of Irving H. Picard (“Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities, LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.*, and Bernard L. Madoff, by and through his counsel, Baker & Hostetler LLP, for entry of an order for sanctions against the following defendants in three adversary proceedings:

- (1) Ellen Bernfeld (“Defendant Ellen Bernfeld”);¹
- (2) The Marilyn Bernfeld Trust; H&E Company – A Partnership; Bernfeld Joint Venture – A Partnership; the Herbert Bernfeld Residuary Trust, in its own capacity and as a partner of H&E Company – A Partnership and Bernfeld Joint Venture – A Partnership; Marilyn Bernfeld in her capacity as a partner of H&E Company – A Partnership and Bernfeld Joint

¹ Adversary Proceeding Number 10-04918

Venture – A Partnership, and as Trustee for the Marilyn Bernfeld Trust and the Herbert Bernfeld Residuary Trust; Ellen Bernfeld, individually and in her capacity as a partner of H&E Company individually and in her capacity as a partner of H&E Company – A Partnership and Bernfeld Joint Venture – A Partnership; and Thomas Bernfeld, in his capacity as a partner of Bernfeld Joint Venture – A Partnership (together, the “Bernfeld Trust Defendants”);²

(3) Michael A. Bellini and Judith Bellini, individually and as a joint tenants (together, the “Bellini Defendants”).³

Collectively, Ellen Bernfeld, the Bernfeld Trust Defendants and the Bellini Defendants will be referred to as “Defendants.” Due notice of the Motion having been given and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein, and upon the proceedings before this Court and after deliberation:

IT IS HEREBY FOUND AND DETERMINED THAT:

1. The Defendants violated this Court’s Orders issued on November 3, 2015, compelling Defendants to respond to the Trustee’s First Set of Interrogatories and the Trustee’s First Set of Requests for the Production of Documents by December 1, 2015.

2. Defendants are in default in these Adversary Proceedings.

3. The Trustee is entitled to the striking of the Defendants’ Answers and the immediate entry of a judgment in the following amounts on the claims asserted:

- a. \$168,000 from Defendant Ellen Bernfeld;
- b. \$498,911 from the Marilyn Bernfeld Trust Defendants; and
- c. \$350,000 from the Bellini Defendants.

² Adversary Proceeding Number 10-05143

³ Adversary Proceeding Number 10-04841

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. The Motion is granted on the terms and conditions set forth herein;
2. Defendants are found in contempt of this Court's Orders, entitling the Trustee to an award of his reasonable attorneys' fees and costs associated with bringing this Motion. The Trustee is ordered to submit an accounting of his reasonable attorneys' fees and costs.
3. As soon as practicable, this Court shall enter default judgments in favor of the Trustee and against the Defendants in substantially the same form as the Judgments set forth in Exhibit B, and the Trustee shall have immediate execution thereof;
4. If and when the Judgments are satisfied, the Trustee shall promptly issue a satisfaction of judgment, or such other documents as may be reasonably requested by the Defendants to evidence the satisfaction of the Judgments.
5. This Court shall retain jurisdiction to, among other things, interpret and enforce the terms and provisions of this Order.

Date: _____, 2016.

JUDGE STUART M. BERNSTEIN

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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ELLEN BERNFELD,

Defendant.

Adv. Pro. No. 10-04918 (SMB)

FINAL JUDGMENT BY DEFAULT

Default was entered against Defendant Ellen Bernfeld on _____, 2016. Therefore, on Motion of the plaintiff, Irving H. Picard, as Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC (the “Trustee”), judgment is entered against Ellen Bernfeld as follows:

IT IS ORDERED, ADJUDGED, AND DECREED THAT the Trustee be awarded a judgment against and recovery from Defendant Ellen Bernfeld in the amount of \$168,000.

Date: _____, 2016.

JUDGE STUART M. BERNSTEIN

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

MICHAEL A. BELLINI, individually and as a joint
tenant; and JUDITH BELLINI, individually and as a
joint tenant,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04841 (SMB)

FINAL JUDGMENT BY DEFAULT

Default was entered against Defendants Michael A. Bellini and Judith Bellini, individually and as a joint tenants on _____, 2016. Therefore, on Motion of the plaintiff, Irving H. Picard, as Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC (the “Trustee”), judgment is entered against Michael A. Bellini and Judith Bellini, individually and as a joint tenants as follows:

IT IS ORDERED, ADJUDGED, AND DECREED THAT the Trustee be awarded a judgment against and recovery from Defendants Michael A. Bellini and Judith Bellini, individually and as a joint tenants in the amount of \$350,000.

Date: _____, 2016.

JUDGE STUART M. BERNSTEIN

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

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v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

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In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
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Plaintiff,

v.

MARILYN BERNFELD TRUST; HERBERT
BERNFELD RESIDUARY TRUST, in its own
capacity and as a partner of H&E Company – A
Partnership and Bernfeld Joint Venture – A
Partnership; H&E COMPANY – A PARTNERSHIP;
BERNFELD JOINT VENTURE – A
PARTNERSHIP; MARILYN BERNFELD, in her
capacity as a partner of H&E Company – A
Partnership and Bernfeld Joint Venture – A
Partnership, and as Trustee for the Marilyn Bernfeld
Trust and the Herbert Bernfeld Residuary Trust;
ELLEN BERNFELD, in her capacity as a partner of
H&E Company – A Partnership and Bernfeld Joint
Venture – A Partnership; and THOMAS
BERNFELD, in his capacity as a partner of Bernfeld
Joint Venture – A Partnership,

Defendants.

Adv. Pro. No. 10-05143 (SMB)

FINAL JUDGMENT BY DEFAULT

Default was entered against Defendants the Marilyn Bernfeld Trust; H&E Company – A Partnership; Bernfeld Joint Venture – A Partnership; the Herbert Bernfeld Residuary Trust, in its own capacity and as a partner of H&E Company – A Partnership and Bernfeld Joint Venture – A Partnership; Marilyn Bernfeld in her capacity as a partner of H&E Company – A Partnership and Bernfeld Joint Venture – A Partnership, and as Trustee for the Marilyn Bernfeld Trust and the Herbert Bernfeld Residuary Trust; Ellen Bernfeld, individually and in her capacity as a partner of H&E Company individually and in her capacity as a partner of H&E Company – A Partnership and Bernfeld Joint Venture – A Partnership; and Thomas Bernfeld, in his capacity as a partner of Bernfeld Joint Venture – A Partnership (collectively referred to as “Defendants”) on _____, 2016. Therefore, on Motion of the plaintiff, Irving H. Picard, as Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC (the “Trustee”), judgment is entered in favor of Trustee and against Defendants as follows:

IT IS ORDERED, ADJUDGED, AND DECREED THAT the Trustee be awarded a judgment against and recovery from Defendants of \$498,911.

Date: _____, 2016.

JUDGE STUART M. BERNSTEIN